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United States Department of the Interior

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FWE/CO/USDOE-RFP/USEPA-Region VIII
MAIL STOP 65412

May 22, 1992

Mr. James K. Hartman
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Mr. Martin Hestmark
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USEPA Region VIII
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Gentlemen:

The U.S. Fish and Wildlife Service requests that the U.S. Department of Energy (USDOE) consistently take aggressive, proactive action to evaluate, document, and minimize potential adverse impacts to natural resources. Potential adverse impacts resulting from past practices and circumstances that justified the Rocky Flats Plant site being added to the National Priorities List (NPL), and also from the implementation of interim remedial/remedial activities that ensue as a result of the RI/FS process (emphasis added) should be included. This proactive approach to manage, protect, and restore natural resources is important for all interim remedial/remedial project activity at all Rocky Flats Plant Ous (emphasis added). It is also imperative that this consideration be given in a timely manner for all projects associated with the Rocky Flats Plant (RFP).

The Service emphasizes that protection and restoration activities for species and habitats related to the Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), Fish and Wildlife Coordination Act (FWCA) and the Bald Eagle Protection Act (BEPA) as ARARs, along with development and implementation of appropriate mitigation plans for potential adverse impacts to natural resources, must be an inherent planning component of all projects (permanent or interim actions) prior to their undertaking.

ADMIN RECORD

A-SW-001228

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The Service remains concerned that comprehensive strategies have not been developed and implemented for monitoring, documenting, and evaluating potential adverse impacts to natural resources, especially endangered species and migratory birds, in a timely fashion as described above. While the importance of this strategy for compliance purposes with the aforementioned ARARs at meetings of the Natural Resources Trustees has been acknowledged, it is apparent that this approach was not implemented in a timely manner for interim remedial projects at Ous 1 and 4. Protection and restoration strategy development and implementation of these strategies prior to interim remedial construction activity at OU3 and in USDOE planning activities associated with a proposed diversion of Woman Creek around Standley Lake are strong concerns for the Service.

The Service has previously submitted the substance of these same comments to USDOE a number of times. We are frustrated that our concerns are not yet routinely incorporated into standard operating procedures in a timely manner.

The Service appreciates the opportunity to review compliance documentation at its earliest availability. Fortunately, our experience with construction activities at the Rocky Flats Plant, especially related to projects within OUI and OU4, have probably resulted in compliance with the four Acts noted above as ARARs. However, these Acts, as ARARs and of their own accord outside of the CERCLA process, are fundamentally characterized by site-specific, local and regional issues that can quickly become environmentally substantive and potentially far-reaching. The Service recommends that USDOE aggressively manage ARARs compliance in advance of implementing construction or other activities that can potentially injure natural resources.

Finally, the Service encourages that USDOE establish a good document trail of its consideration and compliance with the ESA, MBTA, FWCA and BEPA for each project associated with the Rocky Flats Plant. The Service recommends this approach whether or not a project is CERCLA or NEPA-associated or is outside the legal scope of either process.

It is the intent of the Service to aggressively pursue substantive compliance with the ESA, MBTA, FWCA and BEPA for all Rocky Flats-associated projects. This intention especially relates to "take" under both the ESA and MBTA and ESA Section 7 consultation compliance.

Because of the importance of this issue, the Service invites and encourages all USDOE environmental managers, project managers and other appropriate staff, EG&G as Rocky Flats Plant contractor for USDOE, USEPA, and the Colorado Department of Health to a briefing hosted by the Service on "take" and consultation issues associated with the ESA and MBTA. This briefing will be held Thursday, June 25, 1992, at 9 a.m. in the Service's Region 6 Offices, 134 Union Boulevard, Lakewood, Colorado.


The purpose of Service involvement within the CERCLA process at all NPL sites is to ensure that its trust resources receive conscientious consideration during the RI/FS process. To that end, the Service is ready and willing to assist USDOE as the lead natural resource trustee and USEPA with substantive ARARs compliance.

Mr. James K. Hartman
Mr. Martin Hestmark

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Please contact John Wegrzyn at (303) 231-5280 if you have questions or require further information. Thank you for affording the Service opportunities to provide technical assistance and for involving the Service on natural resource trustee issues at Rocky Flats.

Sincerely,


Leroy W. Carlson
Colorado State Supervisor

JGW:LRD

cc: USDOJ/OEA-Region 6 (Attn: Robert Stewart)
FWS/ARD-FWE, Region 6
FWS/FWE/SLC
USDOE-Rocky Flats, (Attn: Frazer Lockhart, Bruce Thatcher, Neil Roy,
all OU Project Managers)
USEPA Region VIII, CERCLA-Federal Facilities (Attn: all RPMs)
CONR (Attn: Ron Cattary)
CDOW (Attn: Dave Weber)
CDH (Attn: Gary Baughman)
ESSG-Rocky Flats (Attn: Jack Kersh)

Reference: DOE-ADV.LET

Reading File
File: EC/Superfund/Rocky Flats